

UNITED STATES DISTRICT COURT DISTRICT OF SOUTH DAKOTA NORTHERN DIVISION	SCHRIEVER BY HIEB
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<p>STIOUX RURAL WATER SYSTEM, INC., a Nonprofit Corporation, Plaintiff,</p> <p>vs.</p> <p>CITY OF WATERTOWN, a South Dakota Municipality, and WATERTOWN MUNICIPAL UTILITIES, an Agency of the City of Watertown, Defendants.</p> <p style="text-align: center;">DEPOSITION OF DARIN SCHRIEVER</p> <p>APPEARANCES:</p> <p>For the Plaintiff: JEFFREY A. COLE ZIMMER, DUNCAN & COLE 5000 South Broadland Ln., Ste 107 Sioux Falls, SD 57108</p> <p>For the Defendant Watertown Municipal Utilities: JACK H. HIEB RICHARDSON, WYLY, WISE, SAUCK & HIEB, L.L.P. P.O. Box 1030 Aberdeen, SD 57402-1030</p> <p>For the Witness: GREGORY H. WHEELER BOYCE LAW FIRM P.O. Box 5015 Sioux Falls, SD 57117</p> <p>ALSO PRESENT: STEVE LEHNER HEATH THOMPSON</p> <p>June 29, 2016 Sioux Falls, South Dakota</p>	<p>BE IT REMEMBERED that on Thursday, the 29th day of June 2016 at 9:13 a.m., at the offices of DGR, 2909 East 57th Street, Suite 101, Sioux Falls, South Dakota, before STEPHANIE L. MOEN, RPR, a Freelance Court Reporter and Notary Public in and for the state of South Dakota, appeared DARIN SCHRIEVER, the witness herein:</p> <p>WHEREUPON, the following proceedings were had, to-wit:</p> <p style="text-align: center;">*****</p> <p>(Exhibit No. 4 marked for identification. Mr. Thompson is not now present.)</p> <p><u>DARIN SCHRIEVER</u> called as a witness, having been first duly sworn testified as follows:</p> <p><u>EXAMINATION BY MR. HIEB:</u></p> <p>Q Can you state your name, please.</p> <p>A Darin Schriever.</p> <p>Q Darin, my name is Jack Hieb, and as I indicated off the record, I represent Watertown Municipal Utilities. Have you ever had your deposition taken prior to today?</p> <p>A Yes.</p> <p>Q On how many occasions?</p> <p>A One.</p> <p>Q All right. Was that involving litigation that related to - was that as an expert or as a - as a fact witness, or do you know?</p>
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<p style="text-align: center;">INDEX OF EXAMINATIONS</p> <p>NAME PG LN</p> <p>By Mr. Hieb 3 14</p> <p style="text-align: center;">INDEX OF EXHIBITS</p> <p>NO. DESCRIPTION PG LN</p> <p>4 DGR Report 5 14</p>	<p>A I don't know.</p> <p>Q Who was involved in the litigation?</p> <p>A It was a contractor versus a utility owner, and we were engineers for the owner.</p> <p>Q So DGR wasn't a party to the lawsuit.</p> <p>A No.</p> <p>Q A couple of things I want to give you, a couple of ground rules I want to give you before we get started. I'm going to ask you verbal questions; I'll need verbal responses. We often communicate with nods of the head, and while that works in a conversation between us, it makes it difficult for the court reporter to take it down, okay?</p> <p>A Yep.</p> <p>Q All right. Second, if you can wait for me to finish asking my question, I'll try to wait for you to finish giving your answer. That way we are not talking at the same time. As you can imagine, it is very difficult for her to take down two voices at the same time, okay?</p> <p>A Okay.</p> <p>Q Finally, if I ask you a question you don't understand or if I use some word that doesn't make any sense to you in the context in which I use it, just don't answer the question; tell me "I don't understand;" I'll be happy to rephrase it, okay?</p> <p>A Yep.</p>
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EXHIBIT

tabbies

E

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- 1 A Yes.
- 2 Q What did you - what were you told or what did you do to
- 3 determine usage rates for those five items shown under the
- 4 west side of Watertown?
- 5 A On Page 2 of the report, we identified that we would be
- 6 using 5500 gallons per month for those customers, and that
- 7 was based upon looking at similar customers in that area.
- 8 Q Right. And I saw that in the report, and I - my question, I
- 9 guess, with respect to that was, if we go back to Page 1 of
- 10 the memo that's included in Appendix E, the first group of
- 11 customers listed under the west side of Watertown is Pelican
- 12 View Estates 154 connections, correct?
- 13 A Correct.
- 14 Q Now, those are residential users, correct?
- 15 A Correct.
- 16 Q And so in order to determine how much water it would take to
- 17 service the needs of those 154 residential users, my
- 18 assumption would be you would look at other residential
- 19 users within Sioux's service area and make some predictions
- 20 based on averages of some kind, right?
- 21 A Right.
- 22 Q And I'm assuming that can be done to a fair degree of
- 23 accuracy. Some might be high, some might be low, but over
- 24 154 users, you hope to be somewhere within the margin of
- 25 error.

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- 1 not large water usages in general, so I believe we used also
- 2 the 5500-gallon per month.
- 3 Q And 5500 gallons per month is really an average for
- 4 residential usage in Sioux's service territory of some kind?
- 5 A We specifically looked at the area for the existing
- 6 customers that I identified on Sheet 1 of the memo, and it
- 7 looks like we identified in the report on Page 2 that the
- 8 actual annual average of customers in that area was
- 9 4700 gallons per month. So we added a - we added to that
- 10 just to be - as a safety factor.
- 11 Q Right, but just so we go back to the first page of the memo
- 12 that's part of Appendix E and we look at the listing of
- 13 users under the east side of Watertown, those were all
- 14 essentially treated just like a residence would be treated
- 15 for purposes of trying to estimate water usage, correct?
- 16 A That's correct, and that's based on experience with many of
- 17 those small businesses that we use typically less than a
- 18 residence, so. . . .
- 19 Q Which businesses that are listed there would experience tell
- 20 you use less than a residence would?
- 21 A We didn't look at each one specifically.
- 22 Q Okay. Did you get any specific data of any kind with
- 23 respect to actual usage of those particular entities?
- 24 A No.
- 25 Q All right. So before we go any further, I want to make sure

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- 1 A Right.
- 2 Q All right. Kaks Addition, which is the second grouping
- 3 listed there, is another residential development, correct?
- 4 A Correct.
- 5 Q So the same modeling applies for determining how much water
- 6 those 22 people or 22 users are going to need, right?
- 7 A Right.
- 8 Q The third one is B&G Welding; the fourth is C&K Truck and
- 9 Trailer Repair; and the fifth is K&P Pump Repair, slash,
- 10 Controls. Now, those are all businesses, correct?
- 11 A Correct.
- 12 Q How - what did you do to try to figure out how much water
- 13 those businesses would need?
- 14 A As I recall, we were told that they were small businesses
- 15 that did not have large water usage, so we used the same
- 16 number as the residential work, so. . . .
- 17 Q Okay. So you would have treated them like you would a
- 18 residence located within that area.
- 19 A Yep.
- 20 Q And if we stay with that memo and we look at the listing for
- 21 the east side of Watertown, those all appear to be
- 22 businesses on the east side of Watertown, right?
- 23 A Correct.
- 24 Q What was done to determine water usage for those entities?
- 25 A It was the same methodology, that they were small businesses

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- 1 I also understand that, when you were asked to make these
- 2 determinations about Sioux Rural Water's ability to serve
- 3 these potential new customers, were you asked to limit your
- 4 assumptions about water usage to certain types of water
- 5 usage or to any and all water usage? Do you understand the
- 6 question?
- 7 A I would say the answer to that is neither. We were asked to
- 8 look at these businesses, not different types of water
- 9 usages.
- 10 Q Okay. Well, my point is that you, in your report, identify
- 11 that you found sort of an average for users within Sioux's
- 12 territory at something in excess of 4,000 gallons per month,
- 13 right? Correct?
- 14 A Correct.
- 15 Q And then you added to that, in order to be safe, and pushed
- 16 it up to a number that's over 5,000 gallons per month to
- 17 make assumptions about how much water would these potential
- 18 new customers use, correct?
- 19 A Correct.
- 20 Q And what I'm asking you is that that assumption that's based
- 21 on the data that Sioux's giving you for existing users,
- 22 would that take into account all water usage for these types
- 23 of new potential customers? What I'm getting at is this:
- 24 You're familiar with the notion that a customer may want or
- 25 may need fire suppression, for instance. Does it factor in

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1 that?

2 MR. COLE: Object to form.

3 Q (By Mr. Hieb) Do you understand water usage for fire

4 suppression purposes?

5 A Yes.

6 Q All right. So understanding that, does your modeling factor

7 in the potential need for that?

8 A Well, I believe our report was clear in the - in stating

9 that Sioux does not provide fire protection in their water

10 service.

11 Q Right, that doesn't answer my question. And the one thing

12 I'll tell you is: I've read your report cover to cover.

13 Your report isn't testimony, so when I'm asking you these

14 questions, it's not that I'm trying to be rude or that I

15 haven't taken the trouble to read it; I need testimony from

16 you.

17 I realize that they don't provide fire protection, but

18 as part of the analysis that you're doing for them, you're

19 being asked to determine: can they supply the water needs of

20 these potential new customers, correct?

21 A Correct.

22 Q And the water needs, as that term is defined I'm assuming,

23 does not include fire protection, right?

24 A That's correct.

25 Q So you're talking only about domestic water supply for

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1 that they could serve an additional 30 to 35 customers in

2 those areas under present conditions?

3 A That was based upon several factors: their treatment

4 capacity, their storage capacity, the demands of the

5 existing system.

6 Q Anything else?

7 A Not that I recall.

8 Q All right. So when you state - when you stated earlier that

9 you believe they have the distribution capacity to serve

10 those potential new customers listed on the first page of

11 the memo that's part of Appendix E to Exhibit 4, that means

12 they have big enough pipes that they could deliver water to

13 those customers adequately, correct?

14 A It's a combination of piping and pumping facilities,

15 storage.

16 Q Big enough pipes, enough storage, and enough pumping

17 capacity.

18 A Correct.

19 Q All right. What, evidently, they're short on, in order to

20 serve all of those customers' needs based upon your data, is

21 source capacity.

22 MR. COLE: Object to form.

23 You can go ahead and answer.

24 A To serve more than the 30 to 35 additional users, we believe

25 that Sioux needs additional source capacity which means

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1 consumption or other related uses on a monthly basis.

2 A That's right.

3 Q I think I asked you this before, but you've circled these

4 areas on Sheets 1 and 10 of Appendix E that identify the

5 areas you were asked to study, and they show with gray dots

6 the existing customers of Sioux. And then you were provided

7 a list of potential new customers for Sioux that's shown in

8 the memo here on the first page of Appendix E, right?

9 A Right.

10 Q What was your ultimate conclusion about Sioux's ability to

11 adequately supply the water needs of the customers listed on

12 the first page of the memo that's part of Appendix E?

13 A From a distribution standpoint, Sioux has the ability to

14 serve those customers.

15 Q Okay. And from a capacity standpoint - would that be the

16 other term to use or would there be a better term?

17 A From a source capacity standpoint?

18 Q Sure, I'll use your term "source capacity standpoint." Do

19 they have the ability to serve those customers?

20 A Our conclusion was that they could serve up to 30 to 35

21 additional customers in those areas.

22 Q And you reached that conclusion by looking at their current

23 source capacity and how much excess source capacity existed?

24 A Correct.

25 Q And how was it that you were able to conclude from that data

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1 wells and treatment capacity.

2 Q (By Mr. Hieb) And in laymen's terms, they don't have enough

3 water to serve all of the customers listed on the first page

4 of memo - of the memo that's part of Appendix E.

5 MR. COLE: Object to form.

6 Go ahead and answer.

7 A We believe they currently don't have adequate facilities in

8 place to serve all of those customers.

9 Q (By Mr. Hieb) Okay. And when you say they don't have

10 adequate facilities, they can't treat enough water at the

11 treatment plant that would provide water to the customers

12 listed in this memo under current conditions.

13 MR. COLE: Object to form.

14 You can go ahead and answer.

15 A You guys are confusing me.

16 Q (By Mr. Hieb) And I don't want to confuse you, so tell me

17 what - I'm trying to - I'm trying to make sure that I

18 understand what your testimony is, and I think I do, but --

19 MR. COLE: Excuse me. Darin, I'm just objecting to

20 the form of the question; that's all. That's all I'm doing.

21 So you can go ahead and answer those questions, and I

22 apologize if my objections have distracted you from what the

23 questions were, both to counsel and yourself.

24 A So to serve all of the customers listed on the first page of

25 the memo, --

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1 A I believe so.

2 Q And each job that you get given by Sioux to do would be

3 assigned a project number.

4 A Right.

5 Q So when they came to you and said we want you to do the

6 study that resulted in you producing Exhibit 4, that had a

7 specific project number.

8 A Right.

9 MR. HIEB: All right. Let's take a short break,

10 okay, Jeff?

11 MR. COLE: Sure.

12 (Recess.)

13 MR. HIEB: We'll go back on the record. We've

14 taken a short break, and we're now back on the record.

15 Q (By Mr. Hieb) I didn't ask you this at the beginning. Would

16 you like me to refer to you as Paul or Mr. Mesner? What do

17 you go by?

18 A You can call me Darin.

19 MR. WHEELER: Darin.

20 Q (By Mr. Hieb) Don't call you either of those things,

21 Mr. Schriever. So call you Darin?

22 A Please.

23 Q All right, Darin. We talked previously about this memo,

24 which is the first page to Appendix E, and those potential

25 additional customers that are listed there. That's what

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1 Q Right. So the 30 to 35 additional customers that they could

2 serve in these areas studied, they can't serve those 35 - 30

3 to 35 additional customers right now as we sit here today.

4 MR. COLE: Object to form.

5 A We would not recommend that they add those 30 to 35 on the

6 west side; they could add them on the east side.

7 Q (By Mr. Hieb) Okay. And adding them on the west side, if

8 they did add them, they may not be able to meet both the

9 needs of those new customers and/or some of their existing

10 customers.

11 A Correct.

12 Q And you say they could, without making the improvements that

13 are currently underway, they could add some customers or

14 could have added some customers on the east side?

15 A Correct.

16 Q How many; do you know?

17 A I don't know off the top of my head.

18 Q All right. So when you were asked to evaluate the two areas

19 that you circled on pages - on Sheets 1 and 10 of Appendix

20 E, you were asked to do that presupposing the improvements

21 that are currently now under construction were in place.

22 A Correct.

23 Q You haven't done any analysis to determine how many, if any,

24 additional customers could have been added without those

25 improvements.

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1 those are, correct?

2 A Yes.

3 Q And I think you said that your analysis that was done, which

4 resulted in this report, indicated that considering current

5 distribution, source capacity, storage, and all the other

6 factors, Sioux Rural Water could add 30 to 35 new customers

7 without making any improvements to their system, correct?

8 A Correct, but I need to qualify that by saying that that

9 assumes that the current construction project is in place.

10 Q Okay. So that assumes that they make some improvements?

11 A Well, there are improvements that are happening as we speak.

12 Q Okay, so - but at the time that this report was done,

13 obviously the construction project wasn't complete.

14 A It was not complete but it was funded; it was in the - was

15 going out for bid shortly, so hydraulics that were done in

16 that memo in Appendix E were based upon those improvements

17 being in place.

18 Q All right, and so I'm glad you clarified that for me. So

19 we're clear, as we sit here right now, the construction is

20 not complete, right?

21 A No.

22 Q And so any improvements to delivery that could be achieved

23 through that project are not in place, right, as we sit here

24 today?

25 A They're not complete.

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1 A Correct.

2 Q And the improvements that are currently underway, what are

3 those?

4 A There are several components of the improvements project. I

5 believe what's relevant here is shown on Appendix D.

6 Q Okay.

7 A So the improvements include several areas of pipeline

8 construction.

9 Q Okay, let's stop there. That would increase distribution

10 capacity, correct?

11 A That is correct.

12 Q All right. And those are shown on Sheet 1 to Appendix D.

13 And when I say "Sheet 1," what I'm really talking about is

14 the first map that's included behind Appendix D to Exhibit

15 4, right?

16 A Correct.

17 Q And how are those shown on that map?

18 A The existing pipeline is shown in black, the improvement -

19 the pipeline improvements are shown in red.

20 Q All right. So the new pipe or the improved pipe that's

21 being installed as part of this ongoing construction project

22 are shown in red here, right?

23 A Correct.

24 Q And is all of that - from my review of this, some of that is

25 adding pipe to new locations, but a significant amount of it

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- 1 accurately reflects the actual improvements currently under
2 contract?
- 3 A Appendix D.
- 4 Q All right. So the two drawings that are Appendix D to
5 Exhibit 4 show the increase in distribution capacity that
6 will result from the current construction project.
- 7 A Correct.
- 8 Q And then the other thing that will be improved by the
9 current construction project is the metering that's going to
10 be installed within the city of Kranzburg.
- 11 A That's what's also under the contract, correct.
- 12 Q And that part of the current contract really has nothing to
13 do with the issues we're dealing with in this lawsuit,
14 right, the metering in the city of Kranzburg?
- 15 A Correct.
- 16 Q The only part of the current construction project that has
17 anything to do with the issues relating to this lawsuit is
18 the increase in distribution capacity shown in Appendix D.
- 19 A Correct.
- 20 Q All right. And you had indicated previously that in order
21 to add the 30 to 35 additional customers that you have
22 opined could be added and supplied with Sioux's current
23 source capacity, they would need to complete this
24 construction project that's currently underway.
- 25 A I believe I stated that Sioux could add the 30 to 35 users

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- 1 being 5500 gallons per month, yes.
- 2 Q Okay. So I just want to make sure I understand your
3 opinion, because it's your opinion that they're using to
4 base - strike that.
- 5 Are you familiar with or have you seen the report that
6 was issued by a Richard Westbrook?
- 7 A No.
- 8 Q Well, I'll tell you that it's based on what you've provided
9 Sioux that Mr. Westbrook is providing damage calculations in
10 his report, all right? That's why I'm digging so hard to
11 make sure I understand your opinions. Are you following me?
- 12 A Sure.
- 13 Q All right. And I think I've misunderstood a couple of times
14 what you're saying, and that's why I'm going to try to make
15 sure I understand it.
- 16 You were asked by Sioux Rural water to determine
17 whether they could supply the water needs of some potential
18 new customers in the two areas that you circled in Appendix
19 E Sheets 1 and 10, right?
- 20 A Correct.
- 21 Q And those potential new customers were divided into east
22 side and west side and listed in the memo that's the first
23 page of Appendix E, correct?
- 24 A Correct.
- 25 Q There are at least two factors that come into play in making

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- 1 without doing additional source capacity improvements --
- 2 Q Right, and --
- 3 A -- and that they could add those users on the east side of
4 Watertown but not -- but on the west side of Watertown, we
5 would recommend that these -- that the project currently
6 under construction be completed before they add new users in
7 that area.
- 8 Q All right. And maybe I misunderstood you. Without the
9 current construction project, the one that's currently
10 underway which provides for additional distribution capacity
11 as shown in the two diagrams that are part of Appendix D to
12 Exhibit 4, without completing that, your studies show they
13 could add 30 to 35 new customers on the east side without
14 doing this.
- 15 A I don't believe we identified a maximum number of customers
16 on the east side from a distribution standpoint. We -- we
17 looked at the users identified at the beginning of Appendix
18 E, --
- 19 Q Right.
- 20 A -- those 13 what appear to be commercial customers on the
21 east side and said that distribution system as is can serve
22 those without the current construction project.
- 23 Q Does the system have source capacity to serve any or all of
24 those 13, or don't you know?
- 25 A Assuming that the water usage is the same as we assumed

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- 1 that determination, at least two; those being source
2 capacity and distribution capacity. Those are two of the
3 factors, right?
- 4 A Correct.
- 5 Q When we -- before we went to the break, I thought you had
6 told me that the conclusions you reached regarding their
7 ability to serve those potential new customers were premised
8 on the completion of the construction project that is
9 currently underway but has not yet been completed, right?
- 10 MR. COLE: I'm going to object to form.
- 11 Q (By Mr. Hieb) And maybe I'm wrong about that.
- 12 A Perhaps I've misspoken. I don't know.
- 13 Q Okay.
- 14 A What I have been trying to communicate is that the east side
15 users identified in Appendix E --
- 16 Q Yep.
- 17 A -- could be added to the existing system without the current
18 construction project.
- 19 Q All of them? Some of them?
- 20 A I would say all of them, --
- 21 Q Okay.
- 22 A -- assuming that the water use is as we've identified.
- 23 Q Sure, assuming no increases in water usage and other parts
24 of the system by existing users --
- 25 A Yep.

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- 1 Q — or assuming that any of these customers don't need more
2 water than the average customer as identified through your
3 work.
4 A Correct.
5 Q All right. The west side couldn't really be added without
6 making some improvements.
7 A That's correct.
8 Q And those improvements that need to be added in order to
9 supply any of these potential customers on the west side,
10 are they distribution improvements, source capacity
11 improvements, or some of both?
12 A To serve all of the identified users on the west side, they
13 would need to make both distribution and source
14 improvements.
15 Q Now, we know from your testimony that the project that is
16 currently underway will add some distribution capacity to
17 the west side, correct?
18 A Correct.
19 Q It doesn't add any source capacity, does it?
20 A Not the currently funded project, no.
21 Q Okay. So even when that project is complete, they still
22 wouldn't be able to service all of these customers on the
23 west side, correct?
24 A Correct.
25 Q How many of them, if you know, could they service on the

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- 1 Q okay. And from a distribution capacity standpoint, the
2 current construction project will improve that to some
3 degree on the west side, but that's not going to do anything
4 to increase their source capacity.
5 A Correct.
6 Q I want to ask you some questions about the preliminary
7 engineering report that's in Appendix B to Exhibit 4.
8 Page 1 of that report, which is part of Appendix B, has a
9 Section C that starts on the bottom of that page called
10 "Growth Areas and Population Trends;" do you see that?
11 A Yes.
12 Q And in that part of the report, you make the statement
13 that — and it's actually — the statement's actually made on
14 Page 2 under that same heading. You say "this relatively
15 modest growth in population is likely to continue into the
16 foreseeable future, and as such will not likely
17 significantly affect future water use projections within the
18 service area." Do you see that statement?
19 A Yes.
20 Q Okay. What is "the service area" that you're referring to
21 there?
22 MR. COLE: I'm going to object to form.
23 A I would say that's generally speaking of the area — that's
24 generally the area served by Sioux and potentially even some
25 areas nearby Sioux. I wouldn't say that that's a specific

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SCHRIEVER BY HIEB

- 1 west side with only the distribution improvements that are
2 being made in the current project?
3 MR. COLE: I'm going to object to form.
4 Q (By Mr. Hieb) If you know.
5 A Well, that's — that's the 30 to 35 that we've already talked
6 about.
7 Q Which would be 30 to 35 total between east and west.
8 A Correct. And I should also point out that the memo in
9 Appendix E —
10 Q Yep.
11 A — also identified some what we called minor distribution
12 improvements in addition to the currently — in addition to
13 the project that's currently under construction. So
14 there's — to serve all of — to serve all of the users on the
15 west side, there's the current construction project that's
16 needed and then what we would call some additional minor
17 construction improvements to get to those developments. Or
18 those — those are identified, and I could point those out if
19 you'd like.
20 Q Well, let's — I think we're now tracking. I think we're on
21 the same page. What you're saying is that, from a source
22 capacity standpoint, they're really capped at 30 to 35
23 additional new customers without doing something to affect
24 their source capacity.
25 A That is correct.

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SCHRIEVER BY HIEB

- 1 hard and fast line, by any means, but generally that would
2 be the existing service area and potential areas nearby.
3 Q (By Mr. Hieb) And I'm not trying to be difficult, but if you
4 don't know, just tell me, but has Sioux ever provided for
5 you what they consider to be their service area?
6 A Not that I recall.
7 Q So this is just an assumption that you had to make or tried
8 to make in — for purposes of doing this report?
9 A Correct.
10 Q On that same issue, if you go to Section B of the report
11 which starts on Page 3 and we go over to Page 4, heading
12 Number 2 where it says "Historic Water Use;" do you see
13 that?
14 A Yes.
15 Q The second paragraph on Page 4 under Historic Water Use
16 starts with the statement "Sioux Rural water is bounded on
17 all sides by other rural water systems and, therefore,
18 growth due to an expansion of its service areas is not
19 possible." Do you see that statement?
20 A Yes.
21 Q What — where did that information come from?
22 A I believe that was also a relatively general statement that
23 there are neighboring rural water systems and municipalities
24 in the area that would not allow for a significant expansion
25 of Sioux's system.

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SCHRIEVER BY HIEB

- 1 Q And I ask this only because - are you familiar with the
2 concept - or are you familiar with the various ways in which
3 rural water systems are organized in South Dakota?
4 A I would say not very well.
5 Q Okay.
6 A You're talking from a legal standpoint?
7 Q Well, I think so.
8 A Okay.
9 Q You have water users' districts and then you have nonprofits
10 that are set up to supply water. Are you familiar with
11 that?
12 A Very little, if any.
13 Q All right. So when you say that "Sioux Rural water is
14 bounded on all sides by other rural water systems and,
15 therefore, growth due to an expansion of its service areas
16 is not possible," is that statement premised on the notion
17 that it's not feasible for Sioux to serve people that are
18 already being - customers that are already being served by
19 another rural? Is that what that --
20 MR. COLE: Object to form.
21 A I believe that's the general intent of that statement. It's
22 not trying to be hard and fast with a service territory
23 line. It's a general statement that says "it's not likely
24 for Sioux Rural Water System to go out and expand their
25 water system into multiple new townships, because most of

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SCHRIEVER BY HIEB

- 1 Q The second sentence under Maintenance and Water Loss on
2 Page 3 states "there is inadequacy in the present system to
3 the extent that the system is operating at near full
4 capacity in some areas and is faced with certain increasing
5 demand." Do you see that statement?
6 A Yes.
7 Q What areas - what certain areas are you referring to in that
8 sentence?
9 A I would say that would generally be referring to the areas
10 that we've identified for distribution improvements that
11 we've already looked at on the maps that show the current
12 construction project.
13 Q The two areas - included within it, the two areas that
14 you've circled in yellow on Sheets 1 and 10 of Appendix E?
15 MR. COLE: Object to form.
16 A Not - I would say not both areas, no.
17 Q (By Mr. Hieb) Either one of those areas?
18 A The west area is one of the areas --
19 Q All right.
20 A -- that we identified as needing improvement.
21 Q Right. Well - and so back to this, the second sentence
22 under Maintenance and Water Loss on Page 3 of the report
23 that's included in Appendix B where it says "there is
24 inadequacy in the present system to the extent that the
25 system is operating at near full capacity in some areas,"

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SCHRIEVER BY HIEB

- 1 that area is currently served by other rural water systems.
2 Q (By Mr. Hieb) Sure. So, I mean, what they're currently
3 serving butts up against what Clark is currently serving,
4 for instance, right?
5 A Right.
6 Q And so you're just making an observation, if I'm correct,
7 that they're kind of bounded on all sides by other entities
8 that are already serving people with water.
9 A Right, and it's not likely that Sioux would have a large
10 territory expansion project --
11 Q Right.
12 A -- going into multiple townships.
13 Q Sure. Unlike some rurals maybe where there is no
14 neighboring rural and they say "well, we're going to go over
15 here and start picking up all these other sections of land
16 that currently don't have access to rural water" but - all
17 right.
18 A Right.
19 Q Let's back up a little bit in this same report that's
20 Appendix B. On Page 2, there's a heading entitled "Existing
21 Facilities," and then if we go to Page 3 underneath that
22 heading, there's a subheading Condition of Facilities and
23 then another subheading Maintenance and Water Loss. Are we
24 in the same place on Page 3?
25 A Yes.

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SCHRIEVER BY HIEB

- 1 one of the areas you're referring to is the area that you
2 circled on Sheet 1 of Appendix E.
3 A I believe that - I believe that's correct.
4 Q Okay. And that was as of - that was as of March of 2013?
5 A Yes.
6 Q Okay. And were any improvements made, to your knowledge,
7 from either a source or a distribution capacity standpoint
8 to improve Sioux's capacity to serve that area between March
9 of 2013 and the present?
10 MR. COLE: Object to form.
11 A I'm not aware of any pipeline improvements. I am aware that
12 the system has made efforts to locate leaks and reduce water
13 loss, which may have helped to some extent.
14 Q (By Mr. Hieb) Do you know whether it has?
15 A I do not.
16 Q All right. To the best of your knowledge, the area you
17 circled on Sheet 1 in Appendix E would, as we sit here
18 today, still be operating at or near full capacity.
19 MR. COLE: Object to form.
20 Q (By Mr. Hieb) To the best of your knowledge.
21 A Can you restate that question?
22 Q To the best of your knowledge, the area you circled on Sheet
23 1 of Appendix E, which is the west side that you were
24 studying, is as we sit here today still operating at or near
25 full capacity.

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SCHRIEVER BY HIEB

- 1 MR. COLE: Object to form.
- 2 A Under peak demand conditions, it likely is.
- 3 Q (By Mr. Hieb) And peak demand conditions are what you have
- 4 to consider when you're looking at the ability to adequately
- 5 serve customers.
- 6 A Correct.
- 7 Q On Page 4 of the report, which is part of Appendix B,
- 8 there's a subheading entitled water supply; do you see that?
- 9 A Yes.
- 10 Q And if we go over to Page 6, included within that subheading
- 11 is another subheading labeled "C" and "Sioux Plant." Do you
- 12 see that?
- 13 A Yes.
- 14 Q Actually then, if we go over to Page 7, the last paragraph
- 15 under that subheading entitled Sioux Plant, you state "as
- 16 illustrated in Figure 4 and Table 5, the peak day
- 17 experienced at the Sioux Water Treatment Plant has
- 18 approached the design capacity of the plant in 2011 and
- 19 exceeded it in 2012." Do you see that statement?
- 20 A Yes.
- 21 Q Now, we've already established that it's peak demand that
- 22 needs to be looked at in terms of determining whether the
- 23 needs of customers can be met, correct?
- 24 MR. COLE: Object to form.
- 25 A Can you say that again?

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SCHRIEVER BY HIEB

- 1 increase in source capacity at the Sioux Treatment Plant?
- 2 A Difference in what regard?
- 3 Q The difference in their ability to serve additional
- 4 customers.
- 5 A Well, you need both in order to serve customers.
- 6 Q That's my point. My point is: you can add all the
- 7 distribution capacity you want to, but if your source is
- 8 already operating beyond its design peak capacity, there's
- 9 no water to pump through the pipes. That's the assumption
- 10 I'm making, and correct me if I'm wrong.
- 11 MR. COLE: Object to form.
- 12 A We also need to remember that the design capacity is not
- 13 necessarily the absolute limit to what the plant can do.
- 14 Q (By Mr. Hieb) Sure. What is the difference between the
- 15 Sioux Water Treatment Plant's design capacity and its actual
- 16 source capacity, if you know?
- 17 A I don't know exactly what that number is, but the water
- 18 system can operate that plant, for example, more than 20
- 19 hours a day. So the design capacity is based upon 20 hours
- 20 per day. It's also based upon information about water
- 21 quality and how much iron and manganese is in the water, for
- 22 example, so how much filtering capacity you have. The
- 23 operators can choose to run for more than 20 hours a day.
- 24 They can maybe also choose to run at a higher treatment rate
- 25 for a period of time.

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SCHRIEVER BY HIEB

- 1 Q (By Mr. Hieb) I think we've already established - and maybe
- 2 I'm wrong, but it's peak demand that you would look at to
- 3 determine whether customers can be adequately served.
- 4 MR. COLE: Object to form.
- 5 A That's generally true.
- 6 Q (By Mr. Hieb) Okay. And your statement here seems to
- 7 indicate that, in 2011, the Sioux Water Treatment Plant had
- 8 approached the design capacity and, by 2012, it had exceeded
- 9 its design capacity to supply water, correct?
- 10 A Yes.
- 11 Q And the Sioux Water Treatment Plant is the water treatment
- 12 plant that would serve or service both the area circled on
- 13 Sheet 1 of Appendix E and the area circled on Sheet 10 of
- 14 Appendix E, correct?
- 15 A Right.
- 16 Q And when you talk about design capacity of that plant,
- 17 you're talking about source capacity, correct?
- 18 A Correct.
- 19 Q That's not distribution capacity, right?
- 20 A Correct.
- 21 Q And so if that water treatment plant was exceeding the
- 22 source capacity - the design source capacity of the plant in
- 23 2012, how is it that an increase in the distribution
- 24 capacity to either of those areas circled on Sheet 1 or
- 25 Sheet 10 would really make any difference without an

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SCHRIEVER BY HIEB

- 1 Q Sure. But if - from an engineering standpoint, if you were
- 2 consulting an entity like Sioux Rural Water, would you
- 3 recommend attempting to run beyond design capacity for
- 4 purposes of source for any extended period of time?
- 5 A Not for an extended period of time, no.
- 6 Q And how would you define "an extended period of time"?
- 7 A That's subjective. I don't know.
- 8 Q Well, could you do it for more than a year, in all
- 9 likelihood, without having issues?
- 10 A I - I can't say. It depends on actual circumstances.
- 11 Q Depends on how lucky you are, in some respects?
- 12 MR. COLE: Object to form.
- 13 A Are you asking a question?
- 14 Q (By Mr. Hieb) Yeah, I'm asking a question. Does it depend
- 15 on how lucky you are in some respects?
- 16 MR. COLE: Same objection.
- 17 A I don't believe it's luck.
- 18 Q (By Mr. Hieb) Well, here's what I'm getting at: because I
- 19 don't run a water treatment plant and I think you should -
- 20 you probably know more about it than I do, but the way I
- 21 envision this is that, when you are operating at full design
- 22 capacity or even beyond full design capacity, you are,
- 23 basically, one significant event away from not being able to
- 24 supply water to your customers. That's my assumption. Is
- 25 that correct?

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SCHRIEVER BY HIEB

- 1 improvements shown in Paragraph C on Page 12 are under
 2 contract; they're just under contract as modified in the
 3 addendum.
 4 A Correct.
 5 Q All right. And then I think we've already identified that
 6 the miscellaneous locations in Subparagraph D don't have
 7 anything to do with the two areas related to this
 8 litigation, correct?
 9 A Correct.
 10 Q So we won't worry about those. The second area of, I guess,
 11 improvement which starts on Page 12 would be "Pumping
 12 Improvements," right?
 13 A Yes.
 14 Q And those start on Page 12, continue on Page 13, and
 15 conclude on Page 14, correct?
 16 A Yes.
 17 Q Have any of those pumping improvements, to your knowledge,
 18 been made or are they under contract?
 19 A Well, Booster H, for example, under Paragraph A on
 20 Page 12 —
 21 Q Okay.
 22 A — has been redefined.
 23 Q Okay.
 24 A So that is no longer relevant.
 25 Q Okay.

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SCHRIEVER BY HIEB

- 1 A Yes.
 2 Q So that doesn't — that only — that only affects the ability
 3 to provide water for those areas in the event a backup is
 4 needed.
 5 A Correct.
 6 Q Have those improvements been made, to your knowledge?
 7 A The last I knew the physical pump was installed but the
 8 electrical work was not yet complete, —
 9 Q Okay.
 10 A — but it might be by now; I don't know.
 11 Q Any of the other pumping improvements listed there relate to
 12 the two areas identified on Sheets 1 and 10 of Appendix E?
 13 A No.
 14 Q Okay. And then Heading 3 would be "Source Capacity
 15 Improvements" starting on Page 14, correct?
 16 A Correct.
 17 Q Have any of the source capacity improvements — well, strike
 18 that.
 19 Some of the source capacity improvements do relate to
 20 the ability to provide water to the areas circled on Sheets
 21 1 and 10 of Appendix E, correct?
 22 A Correct.
 23 Q Which source capacity improvements relate to those areas?
 24 A It would be the Sioux Water Treatment Plant and the well
 25 capacity identified there under Paragraph B on Page 15.

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SCHRIEVER BY HIEB

- 1 A Those are not going to happen.
 2 Q And it was redefined why?
 3 A We did different piping improvements and pumping
 4 improvements at Tower G such that Booster H is no longer
 5 even required.
 6 Q Let me do it this way: Did any of the pumping improvements
 7 which are recommended starting on Page 12 and continuing
 8 into Page 14 relate to the distribution of water to the two
 9 areas identified on Sheets 1 and 10 of Appendix E?
 10 A Give me a moment —
 11 Q Okay.
 12 A — if you would, just to make sure I answer accurately.
 13 On Page 13, there's Paragraph C which identifies the
 14 Sioux Water Treatment Plant high service pumps.
 15 Q Okay.
 16 A So those pumping improvements don't change the pumping
 17 capacity, but they provide adequate backup.
 18 Q A prophylactic measure of sorts —
 19 A Yeah.
 20 Q — to protect the customers and their water needs —
 21 A Yes.
 22 Q — in the areas identified on Sheets 1 and 10 of Appendix E.
 23 A That one would be specific — well, that would be both, yes,
 24 correct, sure.
 25 Q That was my assumption.

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SCHRIEVER BY HIEB

- 1 Q Have any of those recommended improvements specifically
 2 relating to well capacity or the Sioux Treatment Plant been
 3 made, to your knowledge?
 4 A To my knowledge, no capital improvements have been made to
 5 those facilities. I'm aware that the system has implemented
 6 a more rigorous well maintenance program to better maintain
 7 the wells, so in that regard, the well capacity is in a
 8 better situation. And they've also been quite thorough, in
 9 my understanding, of operating the Sioux Water Plant
 10 efficiently and have made some improvements in that regard,
 11 but physical capital improvements I'm not aware of any.
 12 Q Right, and it's — in large part, the capital improvements
 13 are what you're talking about on Pages 14 and 15, right?
 14 A Yes.
 15 Q So those haven't been made nor are they under contract at
 16 this time, right?
 17 A Correct.
 18 Q And just to make sure I understand this, we've talked about
 19 it, but source and distribution kind of go hand in glove,
 20 don't they?
 21 A You need both to serve a user.
 22 Q Right. So when you — when you talk about making these
 23 improvements to increase the capacity to serve these areas,
 24 you can increase your distribution capacity but without
 25 increasing your source capacity, it may not make a

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SCHRIEVER BY HIEB

- 1 difference in terms of how much water you can provide to
2 those areas.
- 3 A That's generally true, but you also have to generally
4 prioritize your work and figure out ways that you can fund
5 them, --
- 6 Q Exactly, exactly.
- 7 A -- so --
- 8 Q Are you familiar with the type of any prioritization that
9 Sioux has made with respect to trying to implement the
10 improvement recommendations that are included in this report
11 identified in Appendix B?
- 12 A So I'm sure you've noticed that the original PER identified
13 water plant capacity improvements, and then the addendum to
14 that report in Appendix C essentially prioritized those out.
- 15 Q Yep.
- 16 A So my understanding from the Sioux staff was that that was
17 their preference, that they felt they could continue to
18 operate their water sources adequately for the time being
19 with the realization that those projects need to come along
20 shortly after this currently funded project, --
- 21 Q Right.
- 22 A -- so --
- 23 Q The currently funded project will expand distribution
24 capacity, correct?
- 25 A Yes.

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SCHRIEVER BY HIEB

- 1 source capacity improvements are made, right?
- 2 A Well, that's a difference of terms, I guess. When I say
3 "source capacity," it's the water plant and the wells, --
- 4 Q I agree.
- 5 A -- so we're doing the well portion of it, firming up that,
6 but, yes, the other component is the treatment capacity.
- 7 Q Right. You can have all the well capacity you want, but you
8 can still only treat so much of it.
- 9 A Right.
- 10 Q And it's treated water that people - customers need.
- 11 A Correct.
- 12 Q So back to my statement about the treatment plant
13 improvements on the source capacity side. Those are not
14 under contract yet.
- 15 A They're not under contract. We've been in discussion about
16 that, and it's my understanding that they're planning to
17 come along with those shortly.
- 18 Q All right. Finally on Page 18 of that report that's
19 included as Appendix B, you have a heading entitled
20 "Alternates Considered." Do you see that?
- 21 A Yes.
- 22 Q The first is what you've categorized as the "do nothing
23 alternative." Do you see that?
- 24 A Yes.
- 25 Q I take it that means exactly what it says; you just keep

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SCHRIEVER BY HIEB

- 1 Q And within some short period of time in the future here,
2 they're going to need to also make the capital improvements
3 to increase their source capacity.
- 4 A Correct.
- 5 Q And until they're both in place, you're not going to have
6 any real ability to increase supply to those areas where
7 you've identified there's an increase in use or a potential
8 increase in use.
- 9 MR. COLE: object to form.
- 10 A That's generally true. We've identified a modest amount of
11 growth with that 30 to 35ish.
- 12 Q (By Mr. Hieb) But if we use the 30 to 35 as being what they
13 can do either now or in the near future when their
14 distribution capacity is expanded, that's really their limit
15 in those areas until they make the improvements for their --
16 in their source capacity.
- 17 A I believe that's generally true.
- 18 Q And those source capacity improvements are not under
19 contract yet, correct?
- 20 A A portion of them are, the well improvements. That's a part
21 of the source capacity, so that's not under contract, but it
22 is in the currently funded package and preliminary design on
23 it.
- 24 Q But even the well capacity improvements aren't going to
25 increase the amount of water that can be provided until the

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SCHRIEVER BY HIEB

- 1 doing what you're doing without making any capital
2 improvements to the system. True?
- 3 A True.
- 4 Q And from what I can tell, in looking at this report and the
5 rest of what you've provided, Sioux could do that as long as
6 they didn't take on new customers or have an increase in the
7 demands being made by their current customer base.
- 8 A I believe that's generally true.
- 9 Q And from your review of the financials, at least at the time
10 of this report, that provided them adequate cash flow to pay
11 their bills and operate, right?
- 12 A Right.
- 13 Q So these capital improvements that are both currently under
14 contract and being planned in the future are really only
15 necessary in order to expand and add water users to the
16 system?
- 17 MR. COLE: object to form.
- 18 A They're certainly needed to expand a significant amount, --
- 19 Q (By Mr. Hieb) Uh-hmm.
- 20 A -- but I believe they're also needed to provide improved
21 service to existing customers.
- 22 Q Okay. But if they did nothing, incurred no more debt,
23 didn't go make any of these capital improvements, they could
24 adequately serve their existing customer base as long as
25 there wasn't an increase in demand.

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SCHRIEVER BY HIEB

1 A Yes.

2 MR. HIEB: I'm going to take a short break and talk
3 to Steve. I think I'm about done.

4 MR. COLE: Okay.

5 (Recess.)

6 MR. HIEB: We can go back on the record. We took a
7 break. I don't have any further questions for the witness,
8 so. . .

9 MR. WHEELER: Do you have any questions?

10 MR. COLE: I don't have any questions.

11 MR. HIEB: He wants to read and sign as I
12 understand it.

13 MR. WHEELER: Right.

14 (Deposition concluded at 11:52 a.m.)

15 (Signature reserved.)
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SCHRIEVER BY HIEB

C E R T I F I C A T E

1 I, STEPHANIE L. MOEN, RPR, Freelance Court Reporter
2 and duly authorized Notary Public in and for the state of
3 South Dakota residing in Mitchell, South Dakota, do hereby
4 certify:
5

6 That the foregoing deposition of DARIN SCHRIEVER was
7 taken by me and completed on the 29th day of June 2016 and
8 thereafter transcribed by me by means of computer-aided
9 transcription; that the deposition is a full, true, and
10 complete transcript of the testimony of said witness;

11 That the witness, before examination, was by me duly
12 sworn to testify the truth, the whole truth, and nothing but
13 the truth; that the witness reserved signature;

14 That I am not a relative, employee, attorney, or
15 counsel of any party to this action or relative or employee
16 of any such attorney or counsel and I am not financially
17 interested in the said action or the outcome thereof;

18 That I am herewith securely sealing the deposition of
19 DARIN SCHRIEVER and promptly mailing the same to Jack Hieb,
20 Attorney at Law.

21 IN WITNESS WHEREOF, I have hereunto set my hand this
22 19th day of July 2016.
23

24 _____
25 Stephanie L. Moen, RPR
Freelance Court Reporter

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